

Senate Bill No. 93

Passed the Senate September 8, 2009

Secretary of the Senate

Passed the Assembly September 2, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 33445 and 33679 of, and to add Sections 33445.1 and 33505 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 93, Kehoe. Redevelopment: payment for land or buildings.

(1) The Community Redevelopment Law authorizes a redevelopment agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned either within or without the project area if the legislative body makes specified determinations. These determinations by the agency and the local legislative body are final and conclusive. Existing law requires the agency, with respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4 million persons or more, to enter into an agreement with the rapid transit district that includes the county, or a portion thereof, under which the rapid transit district is required to be given specified responsibilities.

This bill would instead authorize a redevelopment agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is located inside or contiguous to, as defined, the project area if the legislative body makes specified determinations. The bill would delete the requirement that the agency, with respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4 million persons or more, enter into an agreement with the rapid transit district that includes the county, or a portion thereof, under which the rapid transit district is required to be given specified responsibilities. The bill would authorize an agency to pay for all or part of the value of the land for, and the cost of the installation

and construction of, any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area's boundaries, if the legislative body makes specified determinations.

The bill would also authorize an agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative body makes specified findings based on substantial evidence in the record. The bill would require an action to challenge these findings to be filed and served within 60 days after the date of the resolution containing the findings. The bill would prohibit an agency from paying for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. These provisions would not apply if the financing, construction, or installation of the land, buildings, facilities, structures, or other improvements is an obligation of the agency under a contract existing on December 31, 2009, is specifically described in the implementation plan prepared by the agency as of July 1, 2009, pursuant to Section 33490, or is specifically provided for in the redevelopment plan as of December 31, 2009.

The bill would also prohibit the agency and legislative body from authorizing or approving the settlement of specified judicial actions that contest the validity of the adoption or amendment of a redevelopment plan if the settlement requires the expenditure of funds outside the project area unless the agency and the legislative body have first held a public hearing on the proposed settlement, as specified. The bill would provide specified notice requirements and procedures for the public hearing, and require that copies of the proposed settlement be made available for public inspection and copying not later than the first date of publication of the public notice.

(2) Existing law requires the legislative body to hold a public hearing before an agency commits to use the portion of taxes allocated to the agency for the payment of the principal of, and interest on, loans, moneys advanced to, or indebtedness incurred by the agency to finance, or refinance, the redevelopment project to instead pay all or part of the value of the land for, and the cost

of the installation and construction of, any publicly owned building, other than parking facilities. Existing law also requires a summary to be available for public inspection and copying, at a cost not to exceed the cost of duplication, and the summary to include specified information.

This bill would add to the specified information required to be included in the summary the facts supporting the findings required to be made by the legislative body in order for an agency to be authorized to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is located outside, and not contiguous to, the project area, but is located within the community.

The people of the State of California do enact as follows:

SECTION 1. Section 33445 of the Health and Safety Code is amended to read:

33445. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located inside or contiguous to the project area, if the legislative body determines all of the following:

(1) That the acquisition of land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of benefit to the project area by helping to eliminate blight within the project area or providing housing for low- or moderate-income persons.

(2) That no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to Section 33490.

(b) (1) The determinations made by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive.

(2) For redevelopment plans, and amendments to those plans that add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan.

(3) A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section.

(c) (1) When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement that is publicly owned, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building, facility, structure, or other improvement that is publicly owned, or both, by periodic payments over a period of years.

(2) The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area, and the indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670 or out of any other available funds.

(d) In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure, or other improvement that is publicly owned has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement that has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

(e) (1) Notwithstanding any other authority granted in this section, an agency shall not pay for, either directly or indirectly, with tax increment funds the construction, including land acquisition, related site clearance, and design costs, or rehabilitation

of a building that is, or that will be used as, a city hall or county administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988–89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

(f) As used in this section, “contiguous” means that the parcel on which the building, facility, structure, or other improvement that is publicly owned is located shares a boundary with the project area or is separated from the project area only by a public street or highway, flood control channel, waterway, railroad right-of-way, or similar feature.

(g) Notwithstanding Section 33445.1, an agency may pay for all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area’s boundaries, if the legislative body makes the determinations required by subdivision (a).

SEC. 2. Section 33445.1 is added to the Health and Safety Code, to read:

33445.1. (a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative

body finds, based on substantial evidence in the record, all of the following:

(1) The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of primary benefit to the project area.

(2) The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned benefits the project area by helping to eliminate blight within the project area, or will directly assist in the provision of housing for low- or moderate-income persons.

(3) No other reasonable means of financing the acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community, including, but not limited to, general obligation bonds, revenue bonds, special assessment bonds, or bonds issued pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code). In determining whether other means of financing are feasible, the legislative body may take into account any relevant factors, including, but not limited to:

(A) Legal factors, such as the eligibility of the improvements for funding under the governing statutes.

(B) Economic factors, such as prevailing interest rates and market conditions.

(C) Political factors, such as the priority of commitments of other public funding sources, the ability or willingness of property owners or taxpayers to bear the cost of any special assessments, taxes, or other charges, and the likelihood of obtaining voter approval, if required.

(4) The payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to Section 33490.

(5) The acquisition of land and the installation of each building, facility, structure, or improvement that is publicly owned is provided for in the redevelopment plan.

(b) An agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not

include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section.

(c) An action to challenge the findings required by this section shall be filed and served within 60 days after the date of the resolution containing the findings.

(d) The provisions of this section shall not apply if the financing, construction, or installation of the land, buildings, facilities, structures, or other improvements is an obligation of the agency under a contract existing on December 31, 2009, specifically described in the implementation plan prepared by the agency as of July 1, 2009, pursuant to Section 33490, or specifically provided for in the redevelopment plan as of December 31, 2009.

SEC. 3. Section 33505 is added to the Health and Safety Code, to read:

33505. (a) The agency and legislative body shall not authorize or approve the settlement of any judicial action specified in Section 33501 that contests the validity of the adoption or amendment of a redevelopment plan if the settlement requires the expenditure of funds outside the project area unless the agency and the legislative body have first held a public hearing on the proposed settlement pursuant to this section.

(b) Notice of the public hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the community. Notice of the public hearing shall be posted in at least five prominent locations inside the project area for at least two weeks before the hearing. Notice of the hearing shall be mailed by first-class mail to the project area committee, if any, and to any other persons or organizations who have filed a written request for public notice.

(c) Copies of the proposed settlement shall be available for public inspection and copying not later than the first date of publication of the public notice.

SEC. 4. Section 33679 of the Health and Safety Code is amended to read:

33679. Before an agency commits to use the portion of taxes to be allocated and paid to an agency pursuant to subdivision (b) of Section 33670 for the purpose of paying all or part of the value of the land for, and the cost of the installation and construction of,

any publicly owned building, other than parking facilities, the legislative body shall hold a public hearing.

Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community for at least two successive weeks prior to the public hearing. There shall be available for public inspection and copying, at a cost not to exceed the cost of duplication, a summary that includes all of the following:

(a) Estimates of the amount of the taxes proposed to be used to pay for the land and construction of any publicly owned building, including interest payments.

(b) Sets forth the facts supporting the determinations required to be made by the legislative body pursuant to Section 33445 or the findings required to be made by the legislative body pursuant to Section 33445.1.

(c) Sets forth the redevelopment purpose for which the taxes are being used to pay for the land and construction of the publicly owned building.

The summary shall be made available to the public for inspection and copying no later than the time of the first publication of the notice of the public hearing.

Approved _____, 2009

Governor